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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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David F. Mears

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BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/822,064	Applicant(s) MEARS ET AL.	
	Examiner Khawar Iqbal	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/4/04
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16, 18-22 are rejected under 35 U.S.C. 102(b) as being unpatentable by McDonald et al (5638055).

3. Regarding claim 1 McDonald et al teaches a communications system for transmitting information signals to a first plurality of receivers upon request, and for transmitting parasitic data to a second plurality of receivers, said communications system comprising (figs. 1-4):

a transmitter for transmitting an information signal to at least one of the first plurality of receivers on an assigned frequency selected from among a plurality of available frequencies, in response to a request to transmit received from a user of said communications system (col. 2, lines 28-55, col. 3, lines 12-30); and

a controller coupled to said transmitter for transmitting parasitic data to at least one of the second plurality of receivers on a heretofore unoccupied frequency selected from among the plurality of available frequencies (col. 4, lines 15-45), and wherein the parasitic data transmission is interrupted if the selected frequency is required for

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transmitting an information signal to one of the first plurality of receivers (col. 5, lines 38-55).

Regarding claim 5 McDonald et al teaches a trunked radio repeater system including a trunked radio repeater and a plurality of portable radios for communicating bi-directionally with each other via said trunked radio repeater, wherein the trunked radio repeater system further includes plural working channels, said trunked radio repeater system further including a plurality of parasitic receivers operating on a secondary basis to the plurality of portable radios, said trunked radio repeater system comprising (figs.1-4):

a first controller for receiving a request from one of the plurality of portable radios to transmit an information signal to at least one other of the plurality of portable radios, and in response thereto for assigning a working channel to carry the information signal (col. 2, lines 28-55, col. 3, lines 12-30); and

a second controller responsive to said first controller for transmitting parasitic data to one or more of the plurality of parasitic receivers on an unoccupied working channel (col. 2, lines 28-55, col. 3, lines 12-30); and

when the first controller assigns a working channel that is in use transmitting parasitic, the first controller terminating the parasitic data transmission and transmitting an information signal on the working channel (col. 4, lines 10-54, col. 5, lines 38-65).

As to claim 19 it is considered the claim is rejected for the same reason as set forth in claim 1.

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Regarding claims 2,6 and 14 McDonald et al teaches wherein the parasitic data is transmitted in the form of digital data packets (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claims 3,7 and 21 McDonald et al teaches wherein each of the first plurality of receivers includes a transmitting apparatus, and wherein a user of one of the first plurality of receivers requests a frequency assignment over which the information signal is transmitted from the requesting user to at least one other of the first plurality of receivers (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claims 4,8 McDonald et al teaches wherein the users of the first plurality of receivers provide public services (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claim 9 McDonald et al teaches wherein a signal is transmitted from the trunked radio repeater to at least one of the plurality of parasitic receivers, wherein said signal assigns a working channel on which the parasitic receiver can transmit to the trunked radio repeater (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claim 10 McDonald et al teaches including an outbound control channel for carrying the signal assigning the working channel assignment (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claim 11 McDonald et al teaches wherein each working channel includes an inbound frequency and an outbound frequency, and wherein the inbound frequency to be used for transmitting to the trunked radio repeater from one of the plurality of parasitic receivers is the inbound frequency of the working channel on which the parasitic receiver last received parasitic data (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claim 12 McDonald et al teaches wherein the second controller transmits an outbound frequency assignment signal to at least one of the plurality of parasitic receivers, in response to which the at least one parasitic receiver tunes to the assigned outbound frequency and thereafter receives the parasitic data on the assigned outbound frequency (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claims 13,15 McDonald et al teaches wherein the parasitic data includes address information, wherein each one of the plurality of parasitic receivers has an address, wherein the parasitic data is transmitted to all of the plurality of parasitic receivers, but only the parasitic receiver having an address matching the address information in the parasitic data responds to the parasitic data (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claims 16,20 McDonald et al teaches wherein when the first controller assigns a working channel that is in use transmitting parasitic data, the parasitic data transmission is terminated and the working channel is relinquished for transmitting an information signal (col. 2, lines 28-55, col. 3, lines 12-30).

Regarding claims 18,22 McDonald et al teaches wherein the termination of the parasitic data transmission before completion thereof causes the parasitic data to be stored and transmitted at a later time (col. 2, lines 28-55, col. 3, lines 12-30).

Response to Arguments

4. Applicant's arguments filed 8-4-2004 have been fully considered but they are not persuasive. Examiner has thoroughly reviewed applicant's arguments but firmly

believes the cited references teach clearly the claimed limitations. Regarding claims 1,5 and 19 McDonald et al teaches central controller 102 determines if the requesting communication unit's pre-assigned priority level meets a predetermined criteria for interrupting a sourced communication. The central controller 102 (see fig. 3) determines the audio source mode of operation for the user group. This information is obtained from a database present in the memory 114 of the central controller 102 and relates the user group to the audio source mode. Thus, the central controller 102 determines the audio source mode to apply based on the particular user group. If at step 301, the first audio source mode is selected, processing continues with step 302. At step 302, the central controller 102 determines if the resource request is an emergency request. If the request is not an emergency request at step 302, then the process continues with step 303, where the central controller 102 denies the resource request, the central controller 102 determines if the resource request is an emergency request at step 307. If the resource request is an emergency request at step 307, the process continues with step 304, where the emergency request is permitted to interrupt the already established communication route, causing the existing communication route to be broken, and a new communication route to be established, thereby configuring the emergency request as the communication source of the group call (col. 4, lines 10-65).

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "multiple channel priorities ..." etc..) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **BANKS-HAROLD, MARSHA**, can be reached at 703-305-4379.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

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(703) 872-9314 (for Technology Center 2684 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Khawar Iqbal


9/2/09
LESTER G. KINCAID
PRIMARY EXAMINER